

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

The United States of America

v.

Daijon Lewis Miles

Case No. 22-mj-504 JFD

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF
A MATERIAL WITNESS WARRANT**

I, Christopher V. Langert, being duly sworn, depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been since March 1998. I am currently assigned to the Minneapolis, Minnesota office of the FBI's Violent Crime Task Force. My primary assignment is the investigation of violent crimes.

2. The facts and information contained in this affidavit are based upon my own investigation and observations and those of other agents, law enforcement officers, and others involved in the investigation and prosecution of this case. This affidavit contains information necessary to support probable cause for the attached Motion and Order for Arrest of Material Witness for Failure to Appear for Testimony. It is not intended to include each and every fact and matter observed by me or known to the government.

3. I am making this affidavit based upon my own personal knowledge and on information that I have received from other Federal, State and local law enforcement officers, and others involved in the prosecution of this case. Because this affidavit is being

submitted for the limited purpose of establishing probable cause in support of an arrest warrant for a material witness, Thomas James Pierce, it is not intended to include each and every fact and matter observed by me or known to the government.

PURPOSE OF AFFIDAVIT

4. This affidavit is submitted in support of application for an arrest warrant for Thomas James Pierce ("Pierce"). Pierce is a material witness in a criminal proceeding, for which a warrant is necessary pursuant to 18 U.S.C. § 3144. Attempts to secure his testimony by subpoena have failed and it has become impracticable to secure his appearance by subpoena.

SUMMARY OF FACTS

5. The FBI, along with local law enforcement officers in Minnesota, have investigated a series of approximately 19 armed robberies committed in the Twin Cities Metro Area from approximately July 12, 2020 through July 30, 2020. All of the robberies appeared to have one subject in common who appeared to be the same person based on descriptions of witnesses and from the review of surveillance footage. The typical description was that of a black male, approximately 5' 8" tall, a mask over his face, but oftentimes witnesses reported seeing tattoos on his face or neck area. Many of the robberies also shared some common characteristics, such as the subject brandishing a firearm, racking the slide of the handgun, pointing it directly at the employee(s), ordering the removal of money from the register and into an item found in the store (typically a plastic bag intended for customers), yelling at the employee(s) to hurry up or go faster, ordering the employee(s) to the ground, and then fleeing the store with cash from the register.

6. Through investigative means, law enforcement was able to identify this subject as Derrick Lee Spillman (hereinafter “Spillman”). Spillman is a multi-convicted felon and it is illegal for him to possess firearms or ammunition under federal law. Spillman was ultimately indicted, pled guilty to seven counts of interfering with commerce by robbery and one count of using, carrying, and brandishing a firearm during and in relation to a crime of violence, and was sentenced to a total term of imprisonment of 262 months. (Court File Number 20-190(1) (ADM/TNL)). During his plea, Spillman confirmed that Daijon Miles (hereinafter “Miles”) was one of the other individuals who participated in these crimes with him during the July 28, 2020 robberies (described in the paragraphs below).

7. On July 28, 2020 at approximately 2:16 p.m., St. Paul Police were dispatched to a report of a robbery of a business at a Holiday Gas Station located at 1444 Minnehaha Avenue East, St. Paul, Minnesota. Upon arrival and through investigation, officers learned that 3 black male suspects entered the business wearing dark clothing and masks. One of the suspects, who was wearing a black sweatshirt with a white colored character on the back and white markings on the left sleeve (Spillman), brandished a handgun, ordered employees and customers to get on the ground, robbed the business of cash and Minnesota Lottery Tickets, and then fled on foot.

8. On July 28, 2020, at approximately 3:01 p.m., approximately 45 minutes after the above St. Paul robbery, Spillman was observed on surveillance footage redeeming some of the stolen lottery tickets at a Speedway store located at 1624 Hastings Avenue, Newport, Minnesota. This surveillance also showed a second, taller, black male with short

dark hair, wearing dark pants, a dark jacket and a mask (believed to be Miles). The second black male also appeared to have markings consistent with a tattoo on his upper chest. Surveillance footage also captured the two males arriving and leaving in a gold or tan colored older model Chevrolet Suburban with a light-colored sticker on the rear window on the bottom left corner.

9. On July 28, 2020 at approximately 6:12 p.m., St. Paul Police were dispatched to a report of a robbery at Sharrett's Liquor located at 2389 University Avenue West, St. Paul, Minnesota. Upon arrival and through investigation, officers learned that two black male suspects, one wearing a black sweatshirt with a white decal on the back, a white baseball hat, dark sunglasses, surgical style mask, dark sweatpants, and dark shoes with white stripes (Spillman), and the other wearing a purple Vikings baseball hat, surgical style mask, black hooded sweatshirt, black glove with red fingertips, dark sweatpants and dark shoes (believed to be Miles), entered the business. Both brandished black handguns, pointed them at employees and customers, robbed the business of two bottles of Hennessy and cash, robbed customers of personal property, and fled on foot. Through investigation, officers were able to review surveillance footage from the area and observed the same gold or tan colored Chevrolet Suburban with a light-colored sticker on the rear window in the bottom left corner appearing to case the business prior to the robbery. A white Chevrolet Equinox meets up with the Chevrolet Suburban prior to the robbery and the two vehicles leave the area together.

10. On July 28, 2020 at approximately 8:55 p.m., Minneapolis Police Officers were dispatched to a report of a robbery at Gopher Liquor located at 335 Monroe Street

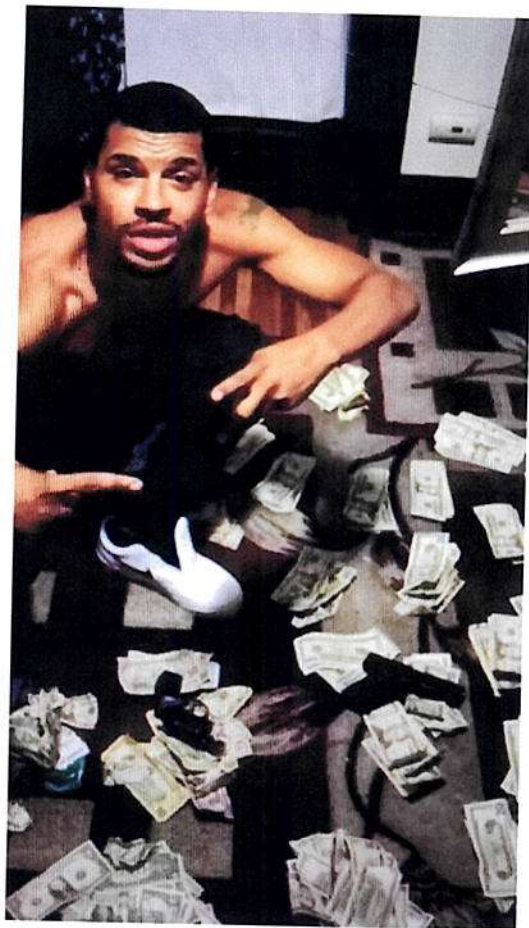
NE, Minneapolis, Minnesota. Upon arrival and through investigation, officers learned that two black male suspects, one described as shorter and one taller, entered the business, and brandished handguns at employees. The shorter suspect pointed his handgun at the forehead of the security guard (Pierce) and stated, "get on the ground or I will take your head off," robbed Pierce of a snub nose .38 Smith and Wesson revolver, ordered employees to the ground, stepped on and kicked the female employee while she was on the ground, robbed the business of cash, and fled on foot. There was no surveillance footage of this robbery. The only two persons present aside from the robbers were the female employee and Pierce.

11. Spillman went on to commit four additional robberies on July 30, 2020. Spillman was arrested by state law enforcement officers on July 31, 2020. Spillman had a cellular telephone on his person.

12. On August 13, 2020, the FBI obtained a federal search warrant for Spillman's cell phone (20-mj-623 ECW). On August 17, 2020, your Affiant and Minneapolis Police Sgt. David Swierzewski, who was also investigating Spillman's robberies, conducted a manual search of Spillman's phone pursuant to the warrant. A video of Spillman brandishing what appears to be two firearms was located on the phone (still image below).



There were other photos in the phone that appear to be of these same two firearms that capture markings confirming they are real firearms. This video of Spillman holding the two firearms was sent to a contact saved in the phone under “D-Loc 139” with telephone number (612) 458-0439 on July 29, 2020 at 11:34 a.m. Your Affiant was unable to determine when the video itself was actually taken. Your Affiant also noticed 37 calls on July 28, 2020 between Spillman’s phone and (612) 458-0439. According to Spillman’s phone, the following photo was taken on July 28, 2020 at 9:29 p.m.:



This photo was subsequently sent to (612) 458-0439. The timing of the photo is important (July 28, 2020 at 9:29 p.m.) because the last of the three robberies on July 28, 2020 occurred at approximately 8:55 p.m. The content of the photo is also important for several reasons, one of which being it depicts a snub nose revolver and, during one of the robberies on July 28, 2020, the suspects stole a small black .38 caliber snub nose revolver from Pierce, an employee of the business. It also depicts other things that could be associated with the robberies including another firearm, a large amount of cash bills laid out on the ground, and a male with a tattoo on his left shoulder.

13. Miles was indicted with three counts of robbery affecting commerce and one

count of brandishing a firearm during and in relation to a crime of violence for the July 28, 2020 incidents (20-190(2) (ADM/TNL).

14. Trial was initially scheduled for September 27, 2021 in this case. However, Miles fired his attorney and the trial was rescheduled for June 21, 2022.

15. Pierce is a material witness because Pierce and the female employee were the only two persons present who would be able to testify directly about what happened during the robbery of Gopher Liquor. Additionally, the .38 revolver was stolen directly from his person. Pierce provided a statement to police when they responded to Gopher Liquor after the robbery. Since then, Pierce has been evading attempts to secure his presence at trial.

Steps Taken to Secure the Material Witness for September 27, 2021 Trial

16. On August 23, 2021, I contacted Pierce on his cell phone, 763-238-1480 and we discussed the then upcoming federal trial in which he would be called as a witness. Pierce provided me an e-mail address of titaniumtommy@live.com as e-mail he could receive a federal subpoena at. During the phone call Pierce advised that he would refuse to come to court under any circumstances. Pierce advised it was a moral thing not to come to court and testify. I then sent a copy of a then issued federal trial subpoena to Pierce at titaniumtommy@live.com.

17. On August 24, 2021, I attempted to served Pierce at his home address of 5765 Main Street NE, Fridley, MN. Brenda Lynn Engelman answered the door to the residence and was hostile to the presence of the FBI. Engelman advised she was a resident of 5765 Main Street NE, and that Tommy was not there. Engleman refused to take a copy of the

subpoena for Pierce, but acknowledged that I left a copy in the front door.

18. On August 25, 2021, Pierce, using e-mail address titaniumtommy@live.com, wrote an e-mail to me stating "Subpoena was received."

19. On August 30, 2021, I served additional subpoenas at Gopher liquor, located at 335 Monroe Street NE, Minneapolis, MN. While entering Gopher Liquor I observed three men wearing clothing and leather motorcycle type vests indicating membership in the Hells Angels. These men were not acting as customers and appeared to be working as security for the store.

20. On August 31, 2021, I spoke with an FBI Special Agent with knowledge of the Hells Angels in the greater Minneapolis area. This Agent advised me that Pierce is a "fully patched" member of the Hells Angels, and that part of their "code" is to refuse to cooperate with law enforcement in any way and to refuse to come to court and testify under any circumstances.

21. Attempts were made to notify witnesses that the trial date was continued before September 27, 2021. I sent an email to Pierce and received no response.

Steps Taken to Secure the Material Witness for the June 21, 2022 Trial

22. On May 23, 2022, I sent a copy of a newly issued trial subpoena to Pierce at titaniumtommy@live.com. Pierce did not reply to this e-mail, but the messages did not bounce back as undeliverable. On May 23, 2022, I left a message at the cell phone number 763-238-1480. This message has not been answered. On June 6, 2022, I attempted to serve Pierce at his home address of 5765 Main Street NE, Fridley, MN. Linda Engleman answered the front door and advised she lived at the residence with her daughter and

Tommy. Engleman advised Tommy told her to never accept any paperwork for him at the house. I left a copy of the trial subpoena in the residence, which Engleman picked up, reviewed, and placed outside the residence.

23. I noticed a covered motorcycle parked in the driveway of the residence. I contacted the Fridley police department for a standby marked squad vehicle while I lifted the cover enough to view the license plate. Fridley Officer Mike Williams arrived and advised he knows Pierce to reside at the address and has spoke with him several times at the address. Officer Williams advised he knew the covered motorcycle was going to be Tommy's white Harley Davidson motorcycle. I then lifted the rear of the cover and revealed Minnesota license plate "TOMMYP". I believed Pierce was inside the residence but refusing to be served.

24. I was made aware of a memorial event scheduled for June 18, 2022 in Minneapolis for Michael Bjorklund aka "Indian" who recently died in a motorcycle accident. Bjorklund was a former president of the Hell's Angels motorcycle club Minneapolis charter. There is a public event being held at the Cabooze bar in Minneapolis, followed by a members only gathering at the Hell's Angels clubhouse.

25. It is expected that numerous outlaw motorcycle gang members from various clubs will attend, both from within the state and outside of the state. I believe that other motorcycle club members will be staying with local members such as Pierce. This could increase the danger to law enforcement and any residents.

26. After this weekend's funeral, in combination with Pierce being aware of the trial starting on Tuesday, he poses a serious flight risk and may even leave the state before

the start of trial to avoid testifying.

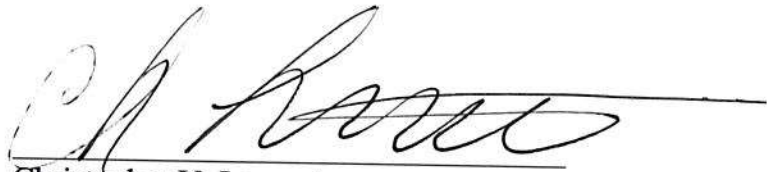
27. Based on the foregoing, your Affiant believes that Pierce will not appear in response to the lawfully served subpoena. Pierce is already actively evading law enforcement in our attempts to personally serve him with a subpoena, and has instructed those who live with him not to accept service on his behalf. Since the August 23, 2021 phone conversation with Pierce, where he refused to come to court under any circumstances, I have been unable to speak with Pierce or meet with him face to face. Your Affiant believes that Pierce will continue to evade law enforcement, up to including the point a material witness warrant issues for his arrest.

28. Your Affiant believes that Pierce's actions have demonstrated that it has become impracticable to secure his presence by subpoena within the meaning of Title 18 U.S.C. § 3144.

CONCLUSION

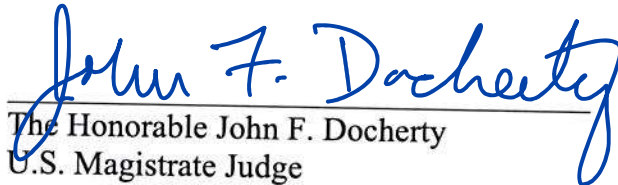
29. Based on the foregoing, there is probable cause to believe that Thomas James Pierce is a material witness for which proceedings are necessary pursuant to 18 U.S.C. § 3144, and it has become impracticable to secure his presence by subpoena.

Further your Affiant sayeth not.

A handwritten signature in black ink, appearing to read "C. V. Langert", written over a horizontal line.

Christopher V. Langert
Special Agent, FBI

SUBSCRIBED and SWORN before me
by reliable electronic means via Zoom
and email pursuant to Fed. R. Crim. P.
41(d)(3). on June 15, 2022.

A handwritten signature in blue ink, appearing to read "John F. Docherty", written over a horizontal line.

The Honorable John F. Docherty
U.S. Magistrate Judge